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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,031	07/25/2003	Gopala Pillai	KMI010USU	3706

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EXAMINER

ABDELWAHED, ALI F

ART UNIT PAPER NUMBER

3722

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,031

Applicant(s)

PILLAI ET AL.

Examiner

Ali Abdelwahed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 13-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,980,260 to Caputi in view of U.S. Patent No. 5,380,233 to Numoto and U.S. Patent No. 4,186,515 to Ogawa.

Caputi discloses the claimed invention except for having an arcuate shoulder ridge extending partially around the planar surfaces of the body exposing a portion of the planar surfaces having sufficient width to allow the appendages to be slid therein; a means for limiting the rotational and linear movement of the appendage relative to the body comprised of a pair of complementary ribbed elements disposed on the planar surfaces; one set of ribbed elements are comprised of beveled raised elements and the other set of ribbed elements are comprised of beveled recessed elements that engage each other when the appendage is attached to the body; the magnetic elements are disposed within the planar surfaces of the body and appendage; the ribs are approximately 0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm; and the planar surfaces disposed on the body all being practically identical in size and shape.

However, Ogawa teaches a toy animal (2) comprising a body (4) having an arcuate shoulder ridge (see figs. 1, 4, defined by the arcuate shoulder ridge that partially surrounds the front legs of the horse located just below the bores defined by reference numeral 20) extending partially around the planar surfaces of the body exposing a portion of the planar surfaces having sufficient width to allow the appendages to be slid therein (see figs. 1, 4). Furthermore, Numoto teaches an attachment means for attaching appendages to a figure comprising an arcuate ridge (see fig. 5, defined by reference numeral 52), and that limit the rotational and linear movement of the appendage relative to the body, and is comprised of a pair of complementary ribbed elements (56), wherein one set of ribbed elements are comprised of beveled raised elements (57) and the other set of ribbed elements are comprised of beveled recessed elements (53) that engage each other when the appendage is attached to the body (see figs. 5, 6); magnetic elements (60, 63) that are disposed within the planar surfaces of the body and the elements configured to be attachable to the body (see figs. 5, 6).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the toy of Caputi, in view of Numoto and Ogawa, such that it would provide the toy of Caputi with the concept of the aforementioned limitations for the purpose of providing a more lifelike appearance to the toy animal, and a stronger and more secure attachment structure for the appendages and body of the toy.

Additionally, it would have been an obvious matter of design choice to modify the size of the planar surfaces disposed on the body and the ribs to be approximately

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0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). It would have also been an obvious matter of design choice to make the planar surfaces disposed on the body of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Furthermore, there is no criticality for these limitations anywhere in the specification of the present invention (see pgs. 13 and 14, lines 24-26 and 1, respectively); and given that the Caputi reference, as modified, discloses all of the claimed structural limitations of the above claims, it is therefore assumed to be capable of performing all of the claimed functions of the above claims.

Response to Arguments

Applicant's arguments filed on May 8, 2006 have been fully considered but they are not persuasive.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (571) 272-4417. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the examiner or the examiner's supervisor.

AA

05/12/2006

Monica S. Carter

MONICA CARTER
SUPERVISORY PATENT EXAMINER